

COMPHIBGRU THREE INSTRUCTION 3820.2C

Subj: OVERSIGHT OF INTELLIGENCE ACTIVITIES WITHIN AMPHIBIOUS
GROUP THREE

Ref: (a) Executive Order 12333
(b) Executive Order 12334
(c) SECNAVINST 3820.3D
(d) CINCPACFLTINST S3800.3
(e) DOD Directive 5240.1
(f) DOD Directive 5240.1R

Encl: (1) Intelligence Oversight Brief
(2) Intelligence Oversight Checklist

1. Purpose. To promulgate policy for the conduct of intelligence gathering activity within Amphibious Group THREE (PHIBGRU THREE) afloat commands. This instruction implements direction contained in references (a) through (d) by providing guidance on procedures for the conduct of the Intelligence Oversight Program. This instruction should be reviewed in its entirety.

2. Cancellation. COMPHIBGRUTHREEINST 3820.2B.

3. Background. Intelligence oversight is broader in scope than simply the protection of U.S. citizens' rights and privacy from intrusion by intelligence activities and agencies. Intelligence oversight includes the assurance that all Navy intelligence activities, operations, and programs function in compliance with applicable U.S. law, statutes, directives and policies. The collection, retention, and dissemination of information concerning U.S. persons and the conduct of intelligence activities by Department of the Navy (DON) intelligence components will be governed by the requirements set forth in references (a) through (f).

4. Definitions

a. Intelligence Activity. Command, staff or activity which has intelligence personnel assigned and is engaged in intelligence or counterintelligence activities, including all intelligence staff, activities, units, and elements of PHIBGRU THREE that do not report operationally or administratively for intelligence oversight reporting and inspection purposes to any other DON intelligence component.

b. Questionable Activities. Any conduct that constitutes, or is related to, an intelligence activity that may violate the law, Executive Order, Presidential directive, references (a) through (d), or other applicable DOD or DON policies.

c. Violations. Actions not in compliance with the policies and procedures established by references (a) through (d) which could result in criminal or disciplinary sanctions or, in the case of military personnel, punitive action under the Uniform Code of Military Justice.

d. Scope. While intelligence oversight relates to the protection of U.S. citizens' rights and privacy from intrusion by intelligence activities, its scope is broader in that it includes a process for assuring that all intelligence activities, operations and programs function in compliance with applicable laws, statutes, directives and policies. The collection, retention, and dissemination of information concerning U.S. persons, the conduct of intelligence activities by PHIBGRU THREE command with intelligence functions, and chain of command oversight of these functions will be governed by reference (c) and this instruction.

e. Applicability. References (a) through (f), enclosures (1) and (2), and this instruction apply to all PHIBGRU THREE intelligence components engaged in collection activities (i.e. those units which produce Intelligence Information Reports (IIRs)) and govern all intelligence activities undertaken by such components. These instructions do not apply to law enforcement activities conducted by such components, or to physical security or personnel security investigations and activities conducted by the Naval Criminal Investigative Service Command.

f. Conduct of Intelligence Activities. PHIBGRU THREE intelligence components shall carry out authorized missions, tasks, and functions as per established policies and procedures in a manner that protects the constitutional rights and privacy of U.S. persons. No person or entity shall be requested to undertake unauthorized or unlawful activities. The use of collection techniques shall be limited to that necessary to perform functions assigned to the PHIBGRU THREE intelligence component concerned. Use of techniques to collect information about U.S. persons shall be limited to the least intrusive means feasible. PHIBGRU THREE intelligence components shall not conduct, or provide support for the conduct of special activities without proper authorization and will comply with the reporting requirements of higher authority. Under no circumstances shall any PHIBGRU THREE personnel engage in, or conspire for the conduct of, assassination.

This instruction does not constitute authority for any PHIBGRU THREE intelligence component to conduct an activity not otherwise authorized by law or higher authority.

g. Personal Responsibility. All members of PHIBGRU THREE intelligence components (SEE NOTE BELOW), both military and civilian, who perform or support intelligence related activities shall be responsible for:

(1) Familiarizing themselves with the policies and procedures required by this instruction and conducting intelligence activities only pursuant to and as per references (a) through (f), and enclosures (1) and (2).

(2) Reporting any intelligence activities, facts, or circumstances that appear to violate Federal law, Executive Order, Presidential directive, or applicable DOD or DON policy, or to indicate any person, whether or not a member or an intelligence component, may have violated a Federal criminal statute. Reports should be made to any appropriate intelligence oversight official using the chain of command.

NOTE: FOR PURPOSES OF THIS INSTRUCTION, INTELLIGENCE COMPONENTS WOULD INCLUDE SNOOPY TEAM MEMBERS, PERSONNEL IN THE RATES OF EW, IS, CT, SM, 163X, 645X, 161X, 164X, 644X, 744X, AND COLLATERAL DUTY INTELLIGENCE OFFICERS.

5. Action.

a. The Commanding Officer shall:

(1) Ensure that all personnel are initially briefed regarding their intelligence oversight responsibilities as part of the check-in procedure.

(2) Ensure all personnel receive intelligence oversight refresher briefings annually, during the first quarter of each fiscal year. The refresher briefing shall consist of reading reference (a), enclosures (1) and (2), viewing an intelligence oversight videotaped presentation, and signing a page 13 entry.

(3) Ensure completion of annual refresher training is recorded in the personnel/training record of each member of the command.

(4) Establish an Intelligence Oversight Officer collateral duty billet (e.g. COLLATERAL DUTY INTELLIGENCE OFFICER).

(5) Ensure subordinate units have an Intelligence Oversight Officer collateral duty billet and that initial briefings and annual refresher training are conducted for appropriate personnel.

b. The COMPHIBGRU THREE Intelligence Oversight Officer (N2A) shall:

(1) Ensure COMPHIBGRU THREE subordinate units conduct and document Intelligence Oversight training.

(2) Provide assist visits as requested by PHIBGRU THREE units.

(3) Ensure procedures exist within PHIBGRU THREE for reporting questionable activities and violations of Intelligence Oversight policy and guidance.

(4) Investigate reports of questionable activities conducted by, or on behalf of, any PHIBGRU THREE unit or personnel.

(5) Assist the Naval Inspector General and the office of the Assistant Secretary of Defense - Intelligence Oversight in the exercise of their intelligence oversight responsibilities.

c. All PHIBGRU THREE personnel shall:

(1) Become familiar with reference (a), and enclosures (1) and (2).

(2) Attend annually, Intelligence Oversight refresher training.

(3) Conduct intelligence activities pursuant to, and as per reference (a) and this instruction.

(4) Report any violation or suspected violation to the COMPHIBGRU THREE Intelligence Oversight Officer.

K. E. GOLDEN
Chief of Staff
Acting

Distribution:
COMPHIBGRUTHREEINST 5216.1Z
List 1-7

INTELLIGENCE OVERSIGHT BRIEF

1. Background. The conduct of intelligence personnel within PHIBGRU THREE is governed by the policies whose substance is set out in paragraph 2 of this brief. The instructions referred to below require that the conduct of PHIBGRU THREE personnel comply with the policies set forth therein. Violations of said policies may result in administrative sanctions or punitive action under the Uniform Code of Military Justice.

2. Conduct of Intelligence Activities. The policies and procedures governing the oversight of intelligence activities (intelligence oversight) set forth in Executive Order 12333 are addressed in SECNAVINST 3820.3D and its enclosures. PHIBGRU THREE personnel shall carry out their authorized functions in a manner that protects the constitutional rights and privacy of United States persons. The term "United States person" means a United States citizen, an alien known to be a permanent resident, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation directed and controlled by a foreign government or governments. PHIBGRU THREE personnel are authorized to collect, retain or disseminate information concerning United States persons only per procedures established by the Secretary of Defense and approved by the Attorney General. Procedures presently applicable to intelligence components of the Department of Defense are set forth in DOD Regulation 5240.1R, which is enclosure (2) to SECNAVINST 3820.3D. Generally, PHIBGRU THREE personnel will have no occasion to collect, retain or disseminate information concerning United States persons other than staff members or persons applying to become PHIBGRU THREE personnel. PHIBGRU THREE personnel are not authorized to use such techniques as electronic surveillance, uncontested to physical search, mail surveillance, physical surveillance or monitoring devices per DOD Regulation 5240.1R.

3. Reporting Procedures. SECNAVINST 3820.3D requires that Navy and Marine Corps personnel comply with that instruction and with Executive Order 12333 and report any conduct that constitutes, or is related to, an intelligence activity that may violate that instruction, federal law, any Executive Order or Presidential directive or applicable Department of Defense or Department of the Navy policy. Such reports shall be forwarded to the Commander, Amphibious Group THREE, via the organizational chain of command with appropriate forwarding endorsements. Advance notice of such matters should be given immediately and the subsequent detailed report should be prepared and transmitted as a matter of top priority.

INTELLIGENCE OVERSIGHT INSPECTION CHECKLIST

1. Command Inspected: _____

Date of Inspection: _____

Name of Inspecting Officer: _____

2. Purpose of Inspection. To ensure the guidelines in current Executive Order 12333 are strictly adhered to where the protection of U.S. citizen's rights are concerned; to ensure U.S. Naval intelligence units are collecting, storing or disseminating intelligence according to their charter; to ascertain whether annual training, including exposure to current directives/instructions, is being conducted and documented.

a. Does the Intelligence Oversight training program have command emphasis?

b. Has the command formally designated an individual with the responsibility for overseeing the Intelligence Oversight program in writing?

c. Does the command indoctrinate all newly reported intelligence and cryptologic personnel regarding the requirements of the Intelligence Oversight program?

d. Does the command document Intelligence Oversight training and maintain records on all required personnel?

e. Does the Intelligence Oversight officer maintain copies of Executive Order 12333, DOD Directive 5240.1, DOD Regulation 5240.1-R, DOD Directive 5148.11 and any service or organization specific implementing instructions?

(1) At a minimum, do required personnel have an understanding of DOD Directive 5240.1-R procedures 1-4, 14 and 15?

(2) Have all required personnel viewed the Intelligence Oversight video taped briefing? Is it recorded?

f. Is annual training, including exposure to current directives/instruction, being conducted and documented?

g. Provide a narrative statement of the overall assessment of the command's potential to violate the provisions of SECNAVINST 3820.3D including the potential for inadvertent

collection of information concerning U.S. persons for foreign intelligence or counter-intelligence purposes.

h. Does the command have a directive, which implements SECNAVINST 3820.3D and CINCPACFLTINST 3820.13B? If not, how does the command disseminate the provisions of these instructions?

i. Are all intelligence-related activities performed by the command authorized by higher authority? Specify discrepancies.

j. Do personnel in command positions of leadership and those who perform or support intelligence related activities appear to be familiar with the provisions and prohibitions of applicable instructions?

k. Are adequate controls in place to ensure personnel strictly observe the provisions of the governing instructions? Explain.

l. Describe any activities that raise questions of legality or propriety.